

ORIGINAL



DOCKET FILE COPY ORIGINAL

CARIBBEAN ASSOCIATION OF NATIONAL TELECOMMUNICATION ORGANIZATIONS

#67 PICTON STREET, NEWTOWN, PORT OF SPAIN, TRINIDAD, W.I. TELEPHONE: (809) 622-3770 4781.5582 FAX: (809) 622-3751

February 7, 1997

FEB 7 1997

Mr. William Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

Re: Notice of Proposed Rulemaking (FCC 96-484) IB Docket No. 96-261

Dear Mr. Caton:

On behalf of the Caribbean Association of National Telecommunication Organizations ("CANTO"), I am writing to express the unanimous opposition of CANTO members to the FCC's proposals in its Notice of Proposed Rulemaking to adopt mandatory settlement rate benchmarks and related policies in IB Docket No. 96-261.

A formal member of the International Telecommunications Union ("ITU"), CANTO is an industry association that represents 36 Caribbean telecommunications operating companies.¹ The mission of CANTO is to foster and facilitate regional cooperation and integration in the development of the telecommunications sectors of the Caribbean Region, with the vision to become the backbone of the Caribbean family dedicated to human and economic development via telecommunications.

After active consultations with its members, CANTO wishes to lodge this objection to the FCC's proposed settlement rate benchmark and related policies, which CANTO believes will materially harm the ability of CANTO and its member carriers to achieve the objectives of the organization. CANTO wishes to lodge specific objections as follows:

¹ CANTO's member carriers operate in the following countries or territories: Anguilla; Antigua; Aruba; Bahamas; Barbados; Belize; Bonaire; Cayman Islands; Cuba; Curacao; Dominica; Dominican Republic; Grenada; Guadeloupe; Guyana; Haiti; Jamaica; Martinique; Mexico; Montserrat; Puerto Rico; St. Kitts; St. Lucia; St. Maarten; St. Vincent & the Grenadines; Suriname; Tortola (B.V.I.); Trinidad & Tobago; Turks & Caicos Islands; and U.S. Virgin Islands.

Board of Directors:

Mrs. Iris M. Struiken-Wijdenbosch - Chairperson, *Suriname*; Mr. Neville Calliste - Vice Chairman, *Grenada*; Mr. Michael Symonette - Treasurer, *Bahamas*; Mr. Trevor Clarke - *Barbados*; Mr. Rene Lopez - Alvarez - *Cuba*; Mr. Julio Constancia - *Curacao*; Mr. Efilto Castillo - *Dominican Republic*; Dr. Neville Saddler - *Jamaica*; Mr. Christian Le Cornec - *Martinique*.

NO. 01
List ABCDE



Mr. William Caton, Acting Secretary

February 6, 1997

Page 2

1. Governing international regulations require that relations between carriers for the exchange of international switched traffic be established and conducted according to "mutual agreement" (ITU-T Article 1.5) and that accounting and settlement rates be established and revised pursuant to "mutual consent" (ITU-T Article 6.2.1). The FCC's proposal to unilaterally prescribe settlement rate benchmarks that would be binding upon foreign carriers regardless of whether they consent to such benchmarks is contrary to those regulations. The articles mentioned in this paragraph refer to the International Telecommunications Regulations agreed to at the World Administrative Telephone and Telegraph Conference (WATTC) held in Melbourne, Australia in 1988 (WATTC-88) where the United States participated and signed the final document. Therefore, settlement rates should be established by mutual consent on a bilateral basis between administrations rather than on a unilateral basis by one country's regulatory authorities. ITU-T Study Group 3 is the appropriate multilateral forum for the United States or other countries to pursue global reform of the accounting rate system in an orderly, fair and non-discriminatory manner.

2. The FCC has stated that it desires lower settlement rates in order to put downward pressure upon the collection rates charged to and paid by U.S. consumers. Based upon the collective experience of CANTO members, there is no historical or statistical relationship between settlement rate levels or trends and the collection rates charged by U.S. carriers to U.S. rate-payers. In the experience of some CANTO members, U.S. carriers have refused to agree to lower their collection rates in exchange for a lower settlement rate. Therefore, the FCC cannot be assured of achieving its stated goal through the prescription of settlement rate benchmarks.

3. The FCC's statutory mandate under Section 1 of the Communications Act of 1934 (47 U.S.C. § 151) is broader than simply ensuring the lowest possible rates for U.S. consumers. Rather, the FCC's broader mandate is to "make available . . . a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges." The FCC's proposed policies would undermine those statutory objectives because, for CANTO members and other carriers, the inevitable effect of those policies would be to decrease significantly net settlement revenues and total net revenues, thereby reducing funds available to be invested in the network and directly resulting in (i) lower quality service between the U.S. and foreign carriers, including reduced call completion ratios; (ii) the extension of telephone lines to fewer new subscribers, thereby limiting the potential recipients of calls from U.S. consumers; (iii) the loss of existing subscribers from the public switched network where the FCC's policies would require a more rapid increase in local calling rates through rate rebalancing than is considered practical or feasible under the circumstances; and (iv) less investment in telecommunications



Mr. William Caton, Acting Secretary

February 6, 1997

Page 3

infrastructure (e.g., payphones; ISDN lines) that would expand calling options for U.S. and foreign rate-payers.

4. The FCC's proposed policies exceed the sovereign authority of the United States. In effect, the FCC is seeking to regulate the settlement rates that foreign carriers can charge for the termination of international switched traffic in their own countries. The FCC does not have sovereign or territorial jurisdiction under the Communications Act of 1934 to regulate telecommunications carriers and activities in other countries.

5. The FCC's conclusion that foreign carriers incur greater costs to terminate U.S.-billed traffic than U.S. carriers incur to terminate foreign-billed traffic is correct. However, CANTO believes that the difference is far greater than the FCC's estimate of \$.03/minute. The ITU conducted a study of the costs of developing countries in 1990 entitled "Follow-Up Study of the Costs of Providing and Operating International Telephone Service Between Industrialized and Developing Countries," WATTC'88 Resolution PL/3 (ITU 1990). The ITU study concluded (at p. 23) that unit costs per terminating minute were on average more than two times higher for developing countries than for developed countries.² For the poorest countries, the ITU Study (at p. 24) concluded that their carriers incurred costs that were 2.35 times higher than the costs faced by carriers in industrialized nations. Although the FCC in footnote 41 dismisses the study as out-of-date, we are aware of no reason why the cost disparity between developed and developing countries would have changed in the past ten years, and the experience of CANTO members is that the disparity remains as great as ever. CANTO would note that the FCC's criticism of the accounting and reporting systems that produced the data used in the ITU study is, to the extent it has any validity, equally applicable to the tariff rates and TEUREM study results that the FCC uses in its TCP methodology.

6. Regardless whether the FCC or the ITU Study has more accurately estimated the cost disparity between U.S. carriers and carriers in developing countries, the FCC's acknowledgement that such a disparity exists demonstrates that its policy requiring a 50/50 division of the accounting rate has systematically deprived foreign carriers, particularly those in developing countries, of settlement revenues to which they are entitled under cost-oriented

² Because the ITU Study did not estimate the costs of carriers in developed countries at \$0.06/minute or less, as the FCC has done for U.S. carriers, presumably the ITU Study would have estimated a disparity far greater than 2:1 between developed and developing countries had it relied upon the FCC's estimate.



Mr. William Caton, Acting Secretary

February 6, 1997

Page 4

accounting rate arrangements consistent with ITU-T Recommendation D.140. The FCC should immediately repeal the 50/50 policy so that U.S. carriers can enter into a non-50/50 division of tolls by mutual agreement with foreign carriers.

7. The FCC's proposed mandatory settlement rates would have a drastic negative impact upon the Caribbean telecommunications industry and the whole economy of the region. Many carriers in developing countries depend upon U.S. settlement payments for a large percentage of their total net revenues, sometimes 80% or more. If the benchmarks are implemented unilaterally, the result will be to decrease significantly the net settlement revenues received by CANTO member carriers from U.S. carriers. Even if U.S. carriers implemented a full pass-through of those settlement reductions in the form of lower collection rates to U.S. consumers on Caribbean routes, CANTO estimates that the increase in the U.S.-outbound traffic volume would only partially offset lost settlement revenues. Moreover, based upon the historical and statistical lack of a relationship between settlement rate levels and U.S. collection rates, it would be speculative to assume U.S. carriers will voluntarily pass through any portion of settlement rate reductions to U.S. consumers.

8. The loss of significant settlement revenues at this critical juncture in the development of the national and international telecommunications infrastructures in Caribbean countries would have a substantial, adverse impact. In CANTO's view, the result would be a reduction in the funds available for investment in the network, which in turn would result in lower call completion ratios, a reduced quality of service to U.S. and Caribbean rate-payers, and a reduced ability on the part of CANTO members to purchase plant, equipment and other materials from suppliers (including U.S. manufacturers), and ultimately a less advanced and ubiquitous telecommunications infrastructure. Because settlement revenues are used as collateral to obtain access to capital, reduced settlement revenues will have a negative impact on the ability of carriers in developing countries to obtain the funds necessary to complete infrastructure projects already undertaken or to initiate new projects.

9. The FCC's prediction in paragraph 10 that mandatory settlement rate reductions will "provide additional financing for network infrastructure and result in a more ubiquitous global telecommunications network" is simply incorrect. The opposite will occur. Based upon the experience of CANTO members in seeking to access capital markets, the lost settlement revenues which would result from the FCC's mandatory settlement rate benchmarks will make it substantially more difficult, not easier, for carriers in developing countries to obtain capital or financial backing.



Mr. William Caton, Acting Secretary

February 6, 1997

Page 5

10. The FCC's proposed mandatory settlement rate reductions would have a severely detrimental impact in cases where CANTO members and their Government authorities have developed plans regarding privatization, infrastructure development and extension to rural areas, and progress towards more open and liberalized telecommunications markets. Those plans are premised upon gradual rather than sharp settlement rate reductions over time pursuant to the mutual agreement of corresponding carriers. The FCC's proposed policies would subvert those plans, impede network extension to underserved or unserved rural areas, and delay movement toward more open and liberalized markets.

11. Many Caribbean countries are geographically small and isolated with a relatively high percentage of rural inhabitants and only nascent urban developments, and other CANTO members operate in large countries with an extremely low population density. Further, climatic conditions in the Caribbean (e.g., hurricanes; salt water corrosion; flooding) serve only to exacerbate the high-cost environment in which CANTO members provide telecommunications services to the public. In these countries, universal service costs both on an absolute and percentage basis are high. If included within the U.S. system, many of these countries plainly would qualify for the highest levels of universal service assistance.

12. In light of the universal service environment in many Caribbean countries, the FCC's statement that there is "no justifiable basis" for imposing higher costs upon incoming international traffic than upon domestic traffic is insupportable. For many countries, it is a logical and sound public policy to place a greater proportion of joint and common costs, as well as universal service subsidies, upon international traffic as the most robust traffic stream that is capable of supporting the recovery of those costs and subsidies. In many countries, requiring an increase in the costs borne by domestic traffic would lead directly and immediately to a significant loss of subscribers from the public switched network and prevent many other citizens from joining the public switched network for the first time.

13. In estimating its annual net settlements imbalance at approximately \$5 billion (U.S.), the FCC has neglected to take into account the impact of U.S. reverse-billed services, such as callback and home country direct, and refile or reorigination services. The FCC should not penalize foreign carriers for the significant impact upon the U.S. net settlements imbalance caused by these new U.S. carrier offerings, many of which appear to be encouraged by the FCC. Further, the existence of any particular level of settlements imbalance, by itself, is neither beneficial nor harmful. Such an imbalance embodies the settlement costs of U.S. carriers, and those costs can be evaluated only in the context of the revenues they produce for U.S. carriers. In cases where a growing net settlements imbalance is accompanied by growing revenues, U.S. carriers are benefited not harmed.



Mr. William Caton, Acting Secretary
February 6, 1997
Page 6

14. The FCC has not recognized the extent to which U.S. carriers impose excessive collection rates upon U.S. consumers who wish to call various Caribbean countries. Many of these charges are orders of magnitude higher than any reasonable estimate of the U.S. carriers' underlying costs (including unit settlement costs). These excessive collection rates artificially reduce U.S.-outbound traffic volume and U.S. net settlements payments.

15. The FCC's proposed tariff component prices ("TCP") methodology is inherently flawed. Many services to which the methodology has been applied are highly subsidized and therefore below-cost. While CANTO does not agree with the FCC's estimate that 75% of all settlement payments embody a subsidy, CANTO agrees that some operators use a portion of settlement revenues to subsidize local calling rates. Further, the FCC's subsidy estimate undermines the validity of the TCP approach, which works only if the tariff prices included in the study are not subsidized. The FCC's overall TCPs (Appendix E) do not accurately state the costs of terminating U.S.-billed international switched traffic for any CANTO members included in the study.

16. The FCC's proposal for a one-year, two-year or four-year transition plan depending upon a country's per-capita income level is not designed to give CANTO members or other carriers in developing countries sufficient time to adjust to lower settlement rates and revenues. CANTO recommends that transition plans be tailored on a country-by-country basis in light of rate rebalancing and other plans that may exist in those countries. In no case should the transition plan end before the rate rebalancing plan approved by Government authorities in the developing country has been enacted and completed.

17. CANTO does not agree with the FCC's use of the World Bank classifications to segregate all foreign carriers into three classes. The ITU Study demonstrates that the range of cost sensitivity varies enormously among all developing countries. In particular, the ITU Study (at p. 24) estimated that some countries had costs that were more than 4.1 times higher than the developing countries with the lowest unit costs. That estimate is not inconsistent with the FCC's own TCP approach, which estimates a 3.55:1 ratio between the highest- and lowest-cost low-income countries. There is too much variation in the cost experiences of developing countries to prescribe a single settlement rate, or even a range of settlement rates, based upon existing data.

18. The effect of the FCC's proposed mandatory settlement rate benchmarks would be to increase the margins available to existing and would-be providers of callback and refile services in the United States. While those services will be growing stronger,



Mr. William Caton, Acting Secretary

February 6, 1997

Page 7

Caribbean telecommunications providers will be less able to compete due to the loss of settlement revenues caused by the FCC's mandatory settlement rate benchmarks.

We therefore urge the FCC to consider carefully the objections raised by CANTO in these comments, and to refrain from imposing its settlement rate benchmark and related policies upon carriers and regulatory authorities in other countries. Rather, CANTO urges the FCC to work cooperatively with other countries in ITU-T Study Group 3 as the appropriate multilateral forum for resolving inherently global issues such as accounting rate reform in an orderly, fair and non-discriminatory manner.

Respectfully submitted,

A handwritten signature in cursive script that reads "Iris Struiken-Wijdenbosch". To the right of the signature is a small, stylized monogram or initials.

Iris Struiken-Wijdenbosch
Chairwoman of CANTO

cc: Kathyrm O'Brien
International Transcription Services